

Legislature, making it an offense for any husband to wilfully, or without justification, desert, neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances, or any parent who shall wilfully desert, neglect or refuse to provide for the support and maintenance of his or her child or children under the age of sixteen years in destitute or necessitous circumstances; prescribing the penalty therefor; and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass.

TURNER, Chairman.

Committee Room,
Austin, Texas, Jan. 17, 1923.
Hon. T. W. Davidson, President of the Senate:

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 82, A bill to be entitled "An Act to provide that in certain cases one or more charges against the same defendant may be joined in the same indictment or information and that if two or more indictments or informations are presented in such cases, the court may order that they be consolidated."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

TURNER, Chairman.

I am directed by Parr and Strong of the committee to file a minority report directing that it do not pass.

TURNER, Chairman.

Committee Room,
Austin, Texas, Jan. 17, 1923.
Hon. T. W. Davidson, President of the Senate:

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 30, A bill to be entitled "An Act to amend Article 1207e, Title 17, of the Code of Criminal Procedure of the State of Texas, (Acts 1917) so as to provide for the creation of a juvenile board, and to create same in such counties of this State as now, or may hereafter have,

an oil field consisting of as many as fifty producing oil or gas wells, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass.

TURNER, Chairman.

NINTH DAY.

Senate Chamber,
Austin, Texas,

Friday, January 19, 1923.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor T. W. Davidson.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	McMillin.
Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Ridgeway.
Burkett.	Rogers.
Cousins.	Strong.
Darwin.	Stuart.
Davis.	Thomas.
Doyle.	Turner.
Fairchild.	Watts.
Floyd.	Witt.
Holbrook.	Wood.
Lewis.	Woods.

Absent—Excused.

Clark.	Parr.
Dudley.	Wirtz.
Murphy.	

Prayer by the chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Baugh.

See Appendix for committee reports and petitions.

Excused.

Senator Clark for today and tomorrow, on account of important business, on motion of Senator Woods.

Names Added to Bills.

Senator Darwin was added as one of the authors of S. B. No. 143, on motion of Senator Davis.

Senator Strong was added as one of the authors of S. B. No. 148, on motion of Senator Bowers.

Bills and Resolutions.

By Senator Davis:

S. B. No. 142, A bill to be entitled "An Act to amend Article 7137, of the Revised Statutes of Texas, relating to constables, providing for their elections and terms of office and for the appointment of two deputies in justice precincts of eight thousand inhabitants or more, and for the appointment of five deputies in justice precincts where there is a city in said precinct of one hundred thousand inhabitants or more; and declaring an emergency."

Read first time and referred to Committee on Counties and County Boundaries.

By Senators Davis and Darwin:

S. B. No. 143, A bill to be entitled "An Act to amend Chapter 32 of the First Called Session of the Thirty-third Legislature of the State of Texas, entitled, 'An Act to regulate and supervise the sale and purchase in this State of stocks of private, foreign and domestic corporations being organized, and hereafter organized, or proposed to be organized for profit; and to regulate and supervise the offering or contracting for sale or purchase of such stock of such corporations, or proposed corporations, and to fix commission and promotion fees allowed to be charged and providing for service of process, examination fees, and exempting certain corporations from the effect of this Act, providing penalties for the violation of the provisions of this Act, and declaring an emergency,' by adding thereto Section 14-a providing that the terms and provisions of this Act shall not apply to any public service corporation doing business under the laws of this State, whose rates or charges are fixed or regulated by laws or by any governmental agency of this State."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Davis:

S. B. No. 144, A bill to be entitled "An Act amending Chapter 81, page 153, Acts of the Thirty-third Legislature, Regular Session, in reference

to exempting from taxation Young Men's Christian Association buildings, Young Men's Hebrew Association buildings and Young Women's Christian Association buildings."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Stuart:

S. B. No. 145, A bill to be entitled "An Act providing for the entering of interlocutory decrees in all divorce suits brought in this State; providing that final judgment of divorce may be entered after the expiration of six months from the entering of such interlocutory decree; providing that it shall be unlawful for either party to the divorce action to remarry pending the final judgment; affixing a penalty therefor and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Stuart:

S. B. No. 146, A bill to be entitled "An Act relative to the theft of chickens and other domestic fowls within this State, providing that the theft of such poultry, regardless of the value thereof, shall constitute a felony; defining and affixing the penalty therefor and declaring an emergency."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senators Bowers and Fairchild:

S. B. No. 147, A bill to be entitled "An Act to amend Article 4874 of the Revised Statutes of 1911, as amended by Acts of 1913, Chapter 105, page 194, relating to fire insurance companies, by adding thereto Article 4874c, providing that losses shall be paid within thirty days after demand therefor, and providing that such company shall be liable to pay the holder of such policy, in addition to the amount of the loss, twelve per cent damages on the amount of such losses together with reasonable attorney's fees for prosecution and collection of such loss, and declaring an emergency."

Read first time and referred to Committee on Insurance and Banking.

By Senators Bowers and Strong:

S. B. No. 148, A bill to be entitled "An Act to amend Chapter 20, Sec-

tion 1, of the Acts of the Thirty-fourth Legislature as the same appears in Article 6435, of Vernon's Complete Statutes of Texas of 1920, providing against the removal or change in the location of general offices, machine shops, or round houses of any railroad in the State of Texas, and further providing that in event of removal of such general offices, machine shops, or round houses for a reasonable compensation to any party or parties having sustained financial injury or loss by reason of and on account of such removal; providing means and tribunals for ascertaining and collecting such damages, declaring this Act to be in addition to and supplementary of, Article 6435, of Vernon's Complete Statutes of Texas of 1920, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Floyd:

S. B. No. 149, A bill to be entitled "An Act to amend Article 3896 and Article 3901 of Title 58, Chapter 4 of the Revised Civil Statutes of Texas, 1911, relative to the meaning and beginning of a fiscal year, such year, beginning on January first of each year, and requiring each officer named in Articles 3881 to 3886, and also the sheriffs, to file reports and make the settlement required in this chapter on January first of each year and further requiring of such officers on or before the second Mondays in March, June, September and December of each year to make reports in writing, and under oath to the Commissioners' Court of their respective counties of all moneys and fees coming to their hands as such officers, and the name of the person entitled thereto and requiring such report to be filed with the county clerk and by him kept and preserved for future reference and examination, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senators Baugh and Burkett:

S. B. No. 150, A bill to be entitled "An Act to amend an Act passed by the First Called Session of the Thirty-fifth Texas Legislature, amending an Act passed by the Second Called Session of the Thirty-third Legislature, approved September 26, 1914, and being an Act 'to provide a sys-

tem of State bonded warehouses;' and the same is hereby amended to read as follows, and repealing certain statutes and all laws in conflict with this Act."

Read first time and referred to Committee on State Affairs.

By Senator Turner:

S. B. No. 151, A bill to be entitled "An Act to amend Article 3 of Section 27 of House Bill No. 17 passed at the First Called Session of the Thirty-third Legislature of the State of Texas; said subdivision to be so amended as to hereafter read as follows:"

Read first time and referred to Committee on Insurance and Banking.

By Senator Turner:

S. B. No. 152, A bill to be entitled "An Act to create and establish a Court of Record in Bowie County, Texas, and known as the Texarkana Court at Law and limit the jurisdiction and powers of said court, and the territorial limits thereof; to conform the jurisdiction of the District and inferior courts thereto; to provide for the appointment, election and qualification of a judge and a clerk of said court, and fix their compensation and tenure of office, and define their duties and powers, and to repeal all laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on Judicial Districts.

By Senator Strong:

S. B. No. 153, A bill to be entitled "An Act amending Title 58, Chapter 3, Article 3864, Revised Civil Statutes of Texas, 1911, relating to compensation allowed sheriffs on money collected on an execution or order of sale; and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senators Ridgeway and Davis:

S. B. No. 154, A bill to be entitled "An Act to provide the method of preparing statement of facts in all cases appealed or taken upon a writ of error for the consideration of same by the Appellate Courts and for the repeal of all laws and parts of laws in any wise in conflict with the Act or providing for the preparation of any statement of facts."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Ridgeway:

S. B. No. 155, A bill to be entitled "An Act to amend Sections 2 and 3 of Chapter 190 of the Acts of 1917 and adding Section 3-a, increasing the terms of office for the members of the Board of Highway Commission from two to six years so that one term of office will expire each two years, and providing compensation of \$2,500 per year for members of said Commission."

Read first time and referred to Committee on Roads, Bridges and Ferries.

By Senator Doyle:

S. B. No. 156, A bill to be entitled "An Act requiring landlords of Texas to thoroughly fumigate and clean tenant houses, and clean the premises after being vacated by a tenant and before being occupied by another tenant; providing a penalty for the infractions thereof, and carrying an emergency."

Read first time and referred to Committee on Public Health.

By Senator Burkett:

S. B. No. 157, A bill to be entitled "An Act creating the Rankin Independent School District in Upton County, Texas, enlarging and defining its boundaries; including the present Rankin Independent School District, providing for a board of trustees in said District, conferring upon said District and its board of trustees all the rights, powers, privileges and duties now conferred and imposed by the General Laws of Texas upon independent school districts, and the board of trustees thereof; providing that the present board of trustees continue in office until the expiration of their respective terms; providing for the validation of the maintenance tax and bounds heretofore voted in said District; providing that the outstanding bonded indebtedness of said District shall remain in full force, and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Burkett:

S. B. No. 158, A bill to be entitled "An Act to amend Chapter Thirty-three of the General Laws of the Third Called Session of the Thirty-sixth Leg-

islature of 1920, denominated 'An Act to create the Ninety-first Judicial District; fixing its jurisdiction and time of holding court therein; providing for the appointment by the Governor of a judge for said Ninety-first District; providing that the District Clerk and County Attorney of Eastland County each shall be officers of said Ninety-first District Court and fixing their compensation for services rendered therein; providing for transfer of cases from and to the Ninety-first Judicial District Court and the Eighty-eighth Judicial District Court from one court to the other, requiring notice of such transfer of cases in certain instances to be given; providing that suits shall be alternately filed in said Ninety-first Judicial District Court of Eastland County, and the Eighty-eighth Judicial District Court of Eastland County; providing that no grand jury in said Ninety-first District Court of Eastland County shall be organized unless it is specially ordered by the judge of the Ninety-first District, providing that from and after the first day of January of the year 1925, said Ninety-first Judicial District Court shall cease to exist; declaring that an emergency exists requiring the immediate passage of this Act."

Read first time and referred to Committee on Judicial Districts.

S. C. R. No. 11.

Senator Holbrook, by unanimous consent, called up S. C. R. No. 11, relating to the autonomy of the States.

The resolution was read and adopted.

Message from the Governor.

Mr. R. B. Walthall, private secretary to the Governor, was announced at the bar of the Senate, and being duly announced, delivered the following executive message:

Governor's Office.

Austin, Texas, January 19, 1923.

To the Members of the Thirty-eighth Legislature:

The question of taxation is as old as civilization. It is co-ordinate with organized society. It touches every fireside. It links every citizen to his government. Governments cannot endure except supported by taxation. There is no money in Texas with which

to sustain our institutions except that taken from the pockets of the people by taxation. Every citizen is supposed to bear his part of the burdens of government.

Where Do We Get Our Tax Money?

In a study of this age-old problem, our first thought is from what sources do we get our tax money? The answer to this query is, that all our public revenue is derived from taxes levied on property, on occupations, on franchises and on corporate privileges. Last year, from all these sources, there came into the public treasury \$28,453,149. For the purpose of supporting the government last year every person was supposed to pay 62 cents on every hundred dollars worth of property he owned. If he enjoyed any special rights or privileges he was also supposed to pay for that. Neither property nor privileges have any value except that which comes to them through protection of government. Under protection of government, both property and privileges may be enjoyed alike, subject only to the rights of society and the necessities of the State. It is the protection that government gives to these things that makes them valuable and that is why every man is enjoined to render to the government the things that are due the government.

What Does the State Do With Its Tax Money?

Every dollar collected by the State in taxation is supposed to be used by the State for the benefit of the people. Of the \$28,453,149 collected last year by the State from the people, the State, through her established channels of government, paid \$24,747,714 for public education; \$2,151,305 in support of the charitable institutions maintained by the State, \$1,472,970 for the operating expenses of the State courts, and the remainder of this twenty-eight million and more dollars for the administration of the executive departments of the government.

Taxation Shall Be Equal and Uniform.

The Constitution of Texas declares that, "taxation shall be equal and uniform." Under our system, or lack of system, our taxes are neither equal nor uniform. We really have no tax laws in Texas worthy of consideration. Our laws make the payment of taxes

so unfair and unequal that it is repulsive to every sense of right. There can be no such thing as equality of taxation except based on uniformity of assessed valuations. To accomplish this, it is not essential that property be assessed at full value. It is necessary, however, to have a definite and uniform standard based on uniform percentages of value operating for purposes of State taxation alike in all sections of our commonwealth. It requires no expert mathematician to calculate that taxable property in one county assessed at 45 per cent of its true value pays annually, into the State treasury just three times the amount of taxes as is paid by taxable property, though actually of the same true value, yet located in another county and assessed at but 15 per cent. Yet this condition prevails throughout the State; it is the rule and not the exception. This, too, although our Constitution declares, "taxation shall be equal and uniform."

To meet similar situations, the majority of States have created State Tax Commissions clothed with power to equalize values throughout their respective jurisdictions. In many instances these commissions administer all the tax laws. In none of such States do there exist inequalities remotely compared to Texas. A large number of counties in Texas receive more money from the State than they pay to the State, while other counties of equal property values pay to the State far more than is ever received back. There can be selected ten counties which, taken collectively, received back from the State during the three years preceding 1922, all the net taxes from all sources paid by them to the State, and in addition thereto, the sum of \$2,836,385. On the other hand, a similar number of counties can be named equal in property value, that pay into the State treasury more than is ever received back.

Injustice in the payment of taxes, whether school or any other character of taxes, does not essentially arise from the relative amount a county may pay to the State and then receive in return. And it is equally true that no county suffers injury thereby because another county having a greater number of scholastics receives a greater sum from the State for support of its public free schools. Wealth is unevenly distributed. Wherever it assembles

it should be required to assist in the education of our children living in less fortunate communities. And, too, this is the direct result of the application of the ad valorem tax properly administered. It is in the prevailing disproportion of assessed valuations as between the several counties that injustice occurs. If the assessed values of a county are, upon percentages, no higher than are those of other counties such county suffers no injury in paying the same rate of tax. But if a county assess its property upon percentages of value lower than in others, then, inasmuch as by reason of its lower percentages it pays into the State treasury less than its rightful share while receiving from the State, proportionately, more than its rightful share; such county assessing upon lower percentages does injury both to all other counties and to the State. In many instances this is fairly reflected by comparison of amounts paid to and those received from the State.

Should Have Standard of Valuation.

We should have in this State a standard of valuation. To illustrate this point, let us consult a few compilations showing, from a revenue standpoint, the relativity of counties to the State's treasury. And that they may be understood, let me say that the revenue paid into the State treasury include those of every character and from every source. The sums returned to the counties include scholastic apportionments; free text-books apportionments out of appropriations for rural aid and sheriff, attorney's and witness fees; and witness fees in examining trials, but do not include any part of the cost of extension service, vocational education, allotments of State aid in construction of public roads, nor for support of the judiciary. In addition to the figures applicable to the fiscal year 1921-22, I am giving you a summary for the years 1919-21, inclusive, inasmuch as the average of the years will more nearly reflect the operation of the taxing system. I feel confident that it will be of interest for you to know, for instance, that for the fiscal year ending August 31, 1922, Ellis county for illustration, paid into the State treasury net revenue amounting to \$249,093, and received back from the State, \$265,253; excess received over net sum paid in, \$16,160; for the three years 1919-21 inclusive, Ellis county

paid into the State treasury \$57,360 in excess of the amount received. Collin county for the fiscal year ending 1922 paid into the State treasury \$196,761, and received back \$237,278; excess received, \$34,517; for the three years this county received \$78,021 in excess of amount paid in. Fannin county for the fiscal year ending 1922 paid in \$143,324, and received \$223,064; excess received \$79,830; for the three years this county received excess of \$193,841. Hunt county for fiscal year ending 1922 paid in \$171,962, and received \$233,223; excess received \$61,360; for the three years this county received an excess of \$183,210.

Comparing Bell and Williamson Counties, Bell County for the fiscal year ending 1922 paid in \$184,188; received back \$230,259; excess received \$46,071; excess received by Bell County for three years \$107,433; Williamson County for the fiscal year ending 1922, paid in \$225,383; received \$180,253; excess paid in \$45,130. For the three years 1919-21, Williamson County paid in \$164,418 in excess of what was received.

Taylor County for the fiscal year ending 1922 paid in \$104,431 and received \$126,303; excess received \$21,872; excess received for the three years 1919-21, \$47,858. Jones County for fiscal year ending 1922 paid in \$88,214; received \$116,249; excess received \$28,035; excess received for three years 1919-21, \$81,440.

DeWitt County for the fiscal year ending 1922 paid in \$131,619; received \$123,990; excess paid \$7,628; for the three years 1919-21 excess paid \$64,063. Gonzales County for the fiscal year ending 1922 paid in \$96,497; received \$131,605; excess received \$35,107; excess received for three years 1919-21, \$75,334.

Gaudalupe County for the fiscal year ending 1922 paid in \$88,962; received \$113,646; excess received \$24,684; excess received for three years 1919-21, \$31,819. Lavaca County for the fiscal year ending 1922 paid in \$129,934; received \$95,337; excess paid \$34,591; excess paid for the three years 1919-21, \$112,415.

Palo Pinto County for the fiscal year ending 1922 paid in \$113,112; received \$94,361; excess paid in \$18,741; for the three years 1919-21 excess paid in \$40,562. Parker County

for the fiscal year ending 1922 paid in \$89,447; received \$120,276; excess received \$30,828; excess received for three years 1919-21 \$78,775.

These figures are used because they are matters of record and for the further reason that you ought to know them, that in your wisdom, you may remedy the defects. Figures have been assembled and statements tabulated covering each county of the State.

Condensing matters, I will call your attention to the following for the fiscal year ending August 31, 1922, only:

Dallas County paid in \$1,241,353, received \$766,169.

Bexar County paid in \$906,139, received \$641,506.

Harris County paid in \$1,096,081, received \$729,771.

Jefferson County paid in \$528,696, received \$273,732.

McLennan County paid in \$400,490, received \$338,768.

El Paso County paid in \$466,875, received \$358,149.

Tarrant County paid in \$770,733, received \$546,085.

On the other hand:

Van Zandt County paid in \$73,940 and received \$163,738.

Upshur County paid in \$33,796 and received \$121,695.

Shelby County paid in \$51,594 and received \$153,815.

Hopkins County paid in \$70,467 and received \$179,078.

Cass County paid in \$46,595 and received \$150,030.

Houston County paid in \$50,314 and received \$157,429.

Cherokee County paid in \$73,586 and received \$175,688.

Henderson County paid in \$57,598 and received \$142,434.

Rusk County paid in \$42,715 and received \$144,851.

However, before we may undertake, intelligently, to translate principles of equality and uniformity into practice, we must first inform ourselves as to the methods employed in the several counties in assessing property subject to the ad valorem tax. As a matter of common knowledge, the practice prevails in many counties of putting up the local county rate, often to its constitutional limit, and assessing taxable property upon low percentages of true value, so that upon as-

sessed valuation so reduced the county rate thus raised will realize revenue sufficient to meet local needs, yet at the same time yield a minimum of taxes to the State. Whether practiced with intent to withhold from the State its full measure of revenue, or by mere coincidence, the effect is the same; a proportionate part of the taxes rightfully due the State must, essentially, be borne by counties assessing upon relatively higher percentages of value.

As shown by tabulated statements, Smith County, for the fiscal year ending August 31, 1922, paid net revenue into the State's treasury amounting to \$94,920.34 and, during the same period received from the State \$215,746.60; or in other words, all of the State taxes paid in and, in addition thereto, the sum of \$120,826.26.

Lavaca County for the same period paid net revenue into the State Treasury amounting to \$129,934, and received in return \$95,337; or in other terms, paid into the State Treasury \$34,591 more than it received.

Smith County contains 602,753 acres assessed upon an average of \$8.17 per acre. Lavaca County contains 610,484 acres assessed upon an average of \$16.87 per acre.

Floyd County contains 634,971 acres assessed at \$13.00 per acre. El Paso County 657,605 acres assessed at \$10.02 per acre. DeWitt County has 575,233 acres assessed at \$19.56 per acre. Atascosa County has 769,425 acres assessed at \$10.18 per acre. Lubbock County has 568,815 acres assessed at \$10.57 per acre. Even Cottle County in the Panhandle section of the State, with a total acreage of 583,705 is assessed at \$8.31 per acre while Fayette County, with 396,502 acres is assessed at \$16.84 per acre.

To anyone at all familiar with valuations as such actually and reasonably exist throughout the State, and, understanding that upon just valuations the State is dependent for its needed revenue, it will be difficult to harmonize such wide discrepancies in the assessment of property with principles of equality and uniformity to which, by the plain language of our organic law, we are all firmly committed, and to which we should patriotically conform.

This is but a part of the story and a small part at that. I am giving it to you for what it is worth. Not as an argument that land should pay more taxes than now, but that the assessed valuations should be equalized to the end that in all sections of the State both real and personal property should be taxed in proportion to its value. This in all candor as among ourselves should be done. Let me here state that land, taken as a whole, is carrying too much of the State's tax burden. It should carry its proper share and be so equalized as to valuation that every county will bear its proportionate part. With new tax laws reaching into the field of the untaxed taxables, tangible and intangible, and a proper understanding of the value of privilege as well as property, supported by efficient and enforceable law, operating with justice alike to all, there is no sound reason why, with the burden equitably distributed, our tax rate, both county and State, should not be very materially reduced. The State owes it to the tax payers of the State to see to it that our tax laws do injustice to no man. Let every citizen of Texas pay his taxes by a uniform standard.

Gross Receipts Tax.

In Texas, as in most all States, we levy a tax upon the gross receipts of certain industries. This law should be widened and strengthened. There are many activities enjoying earnings upon capital far in excess of the value of their physical properties. The difference between the taxable value of their physical properties and their going concern value, represents intangible values. In Texas we tax the intangible values of railway, bridge, and toll road companies. Upon certain other activities, in most instances in lieu of the tax on intangibles, we levy a tax upon gross receipts. As between these activities and other tangibles, the question of justness is measured by the rate of levy. The problem is not so much one of application as one of reaching taxable values not adequately reflected on the assessment of physical properties. The gross receipts tax is levied in addition to the ad valorem tax on physical properties. In most instances this

process with reference to the activities so taxed may, from the standpoint of the State's justly expectant revenue, be made to serve the same purpose and without expense to the State than would their inclusion under the provisions of the statute providing for taxation of intangibles. As a matter of law, intangible values are, without further legislation, subject to tax; they are no more exempt than are tangible properties. But with few exceptions, we have no legislative machinery for reaching them. The statute should be broadened that they may be reached. It will be found that the field of taxation is rich in untaxed intangibles. In dealing with such activities and doubtless others, the law-making body will find itself obliged to choose from three methods of taxation: First, a tax upon their holdings, tangible and intangible; second, in addition to the ad valorem tax upon their physical properties, the levy of a tax upon gross earnings; and, third, a tax upon earnings, or in other words, an income tax.

Among activities coming under the provisions of our Gross Receipts Tax Law are oil companies; individuals, companies, corporations, or associations which own, control, manage or lease oil wells within this State. Under the provisions of the statute an occupation tax is levied, measured by one and one-half per cent of the average market value of the oil produced. In effect, this, to a certain extent, takes the place of a severance tax, the levy being made upon the occupation or privilege of taking the several minerals from the soil. The point should be emphasized that there is no relation between the severance tax and the property tax. Property tax is based on capital value; property we ourselves accumulate under protection of law. The severance tax is a tax upon privilege; the right to draw upon our economic wealth; our natural resources which have accumulated by the gradual operation of nature.

The principles upon which the two are based are entirely distinct. Nor can it be said that such privilege or severance tax works a greater hardship upon activities so engaged than upon other business interests whose

operating property may be of the same value. Following this doctrine the State of Pennsylvania received annually under its Severance Tax Law, revenues from its anthracite coal deposits alone amounting to seven million dollars. West Virginia, under a similar statute receives annually from its mineral deposits two and one-half million dollars. In Minnesota an occupation or privilege tax is levied equal to six per cent of the value of all ores mined. This is in addition to all other taxes. The revenue from this source exceeds two million dollars per annum. In addition the mining properties of Minnesota pay an ad valorem tax in excess of eighteen million dollars per annum. In Oklahoma a tax is levied equal to three per cent of the value of all oil produced over royalties; machinery and derrick at the well untaxed.

There exists, of course, no way of making, with any degree of accuracy, an appraisal of our State's stored economic wealth, hence in its undisturbed state there can be no fair valuation. The one course to pursue, is for the State, under the provisions of carefully prepared severance laws, to secure just division of realized income flowing from this peculiar character of property. What is said of oil is equally applicable to gas, sulphur, coal, and other minerals so abundantly stored by nature under the soil of Texas.

The provisions of the Texas statute with reference to oil wells provide for a tax, measured by value of production, of one and one-half per cent, computed upon the average market value thereof. It will be noted that the tax is considerably less than in Oklahoma. In Louisiana, in addition to the tax on production, the State Tax Commission obtains settled production of producing wells as of January 1st of each year, and by multiplying this with the current selling price as of like date, fixes the result by capitalization as the assessment to be added to the ordinary value of the land. This is, of course, the application of the severance tax. Also, it is a reminder that vast taxable values are going untaxed in Texas.

Under the language of our Texas statute imposing a tax of one and one-half per cent of the average

value thereof, it has become the practice to fix a posted price and in addition thereto pay a bonus of 25 cents to 80 cents per barrel. Under the ruling, the posted price is construed as the average market value. When the posted price of \$1.50 per barrel, plus a bonus of 50 cents is paid, it would seem that \$2 becomes the market value. The revenue to the State arising from this source for the fiscal year ending August 31, 1921, was \$3,568,974. For the year ending August 31, 1922, it totaled \$2,441,731.70, a decrease under the preceding year of \$1,127,242.41. During this same year Oklahoma received \$3,492,487. And, too, this is but one of the several instances in which the State fails to realize its expectant revenue. It requires but an analysis of the operation of our tax laws, or rather of the inefficiency of such laws, for us to understand why the State Treasury is now operating on a deficiency. A severance tax, whether imposed upon value reached by capitalizing earnings or upon gross production, is far more equitable than is the property tax, inasmuch as in every instance and before the tax adheres, both volume, value and income of the taxable is known. Clearly it is well within the class of subjects having ability to pay. This cannot be said of land which must pay upon assessed valuations whether earning income or not.

We have a statute providing for the levy of a tax equal to two per cent of their gross receipts upon wholesale dealers in coal-oil, benzine, naphtha, gasoline, and other products refined from petroleum. Within the meaning of the statute, wholesale dealers are defined as any individual, company, firm, partnership, or corporation, who buys any of the hereinbefore mentioned articles and sells the same to be again sold. Refineries are not as a rule engaged in buying the articles hereinbefore mentioned. They buy or produce crude petroleum. To an extent they, or their agencies, buy such articles and upon this portion they pay the tax. The greater volume of the business is transacted through agencies or refineries, thereby escaping the tax.

We are producing approximately ten million barrels of oil a month. We get practically no revenue from it. This stream of gold flowing out of the

State ought as a matter of equity contribute at least five per cent of its volume to the upbuilding of the State out of whose soil this wealth comes. Under our law, the big oil companies that build the expensive filling stations on the street corners throughout the State, pay little or no gross tax on the oil commodities handled by them at these filling stations; while the little fellow who owns no oil wells or refineries is forced to pay a two per cent gross tax. As a result of this law passed in the interest of the big oil companies, the one-horse operator is squeezed out of business, and the filling stations owned by the big concerns control the markets at the oil filling stations of Texas. A law that permits a thing of this kind is fundamentally wrong.

Pipe Line Companies.

With one exception the principal owners of pipe lines in Texas refuse to make reports required by the statute. All refuse to pay the tax imposed. The contention is that the statute is unconstitutional. Were it not for the issue raised it is estimated that the revenue coming to the State under this provision of the law would approximate \$2,000,000 each year.

Pipe line companies in the nature of their calling are common carriers. In addition to transporting oil, they buy and store it. They earn substantial income upon capital far in excess of the value of their physical properties. The tax assessed is a privilege or occupation tax equal to two per cent of its gross receipts if such line is wholly within the State; if partly within and partly without the State, then in such proportion of its gross receipts as the length of line within the State bears to that of the entire line. While not surrendering any rights accruing to the State under the provisions of the law now and upon the statute books, it is altogether probable that both the State's and the operating companies' interest would be better defined by placing such activities under the operation of Chapter 4, Title 126, Revised Civil Statutes; the Intangible Asset Law. In this manner their income may be capitalized and a fair valuation for taxing purposes reached.

Inheritance Tax Law.

Our Inheritance Tax Law should be re-drawn, its scope widened, and its

administration placed under State authority. In California the revenue arising to the State from taxes upon inherited property for the year ending June 30, 1920, amounted to \$2,678,158, and for the year ending June 30, 1921, approximately \$7,000,000. In Massachusetts there was collected for the year 1921, under its legacy and succession tax, the sum of \$7,322,947. In Texas, for the year 1921 the sum of \$139,328. For reasons peculiar to the subject as distinguished from other sources of revenue, it would be well for the Legislature to consider placing this service under State authority. In Texas, as in other States, there is an increasing number of estates representing large private wealth. Incident thereto and to the inevitable process of the advancing years, the State should receive considerable revenue from inherited property. Under an inheritance tax law properly drawn and administered, we should be receiving from this source at the present time far in excess of \$1,000,000 per annum.

Delinquent Taxes.

Under our present inefficient tax laws, we have no effective way of collecting taxes. Approximately six million dollars are now due the State as delinquent taxes. This does not include the millions of dollars properly and equitably due the State that never gets on the tax rolls. In justice to the State, and in justice to those who do pay their taxes, this past due tax money should be collected. No business enterprise can survive that does not collect what is due it. The State is no exception to this rule.

Separation of State and County Taxes.

If I were writing the tax laws for Texas, I would not levy an ad valorem tax for State purposes. I would release all property tax to the counties for county purposes. In this way I would lift, in part, the tax burdens from the home builders and small property owners of the State who have been too long contributing more than their proportionate part to the support of the government. To levy and collect a property tax for State purposes has not only proven in this State to be unfair and unequitable, but it requires too much machinery, produces too many leaks, and is necessarily expensive. Let the counties collect whatever ad valorem tax they may desire on

county property, real estate, and personal property, and use it as they see fit. Then let the State ascertain the amount of money necessary to maintain its educational system, support its courts, its charitable institutions, construct its highways and provide for other worth while things of a growing, progressive State, and then by an income tax, an inheritance tax, a tax on natural resources, a franchise tax, a tax on certain occupations, and corporate privileges, get the money and pay the bill. The trouble in Texas is not in finding sources of wealth, for we have it on every hand, but the trouble is in finding those who have the courage to say to fattened wealth and special privileges, "Thou shalt render to Caesar the things that are Caesar's."

Tax Laws Should be Rewritten.

If there is any part of the Texas Statutes that is rude and crude, inefficient, unjust and unfair, it is that part which contains the tax laws of this State. Let us remove our constitutional stumbling blocks, rewrite the tax laws, fix a standard of valuation, make every dollar's worth of property, and every privilege, pay its rightful tribute to the State government. Then our tax burdens, equally borne, will be light on all and we will have money enough to build in this State a civilization worthy of our rare, rich, and romantic history. Texas will then within a few years, be made the best place in all the world in which to live and prosper.

Respectfully submitted,
PAT M. NEFF, Governor.

Simple Resolution No. 41.

Whereas, Hon. R. P. Dorrough, a former member of this body, is now in the city; therefore be it

Resolved, That Senator Dorrough be extended the privileges of the Senate, and he be invited to address the Senate.

The resolution was read and adopted.

The chair appointed Senators Floyd, Thomas and Pollard as a committee to escort Mr. Dorrough to the President's stand, where, after being presented by Lieutenant Governor T. W. Davidson, he addressed the Senate.

S. B. No. 64 on Third Reading.

The Chair laid before the Senate as regular order, on third reading,

S. B. No. 64, A bill to be entitled "An Act to amend Article 7106 of the Revised Civil Statutes of Texas of 1911, which relates to recovery and defendant's replevy bond in sequestration, by providing that the value proven shall be either that of the time of the trial, as the plaintiff may elect; and to amend Article 7111 of the Revised Civil Statutes of Texas of 1911 relating to recovery on plaintiff's replevy bond in sequestration by providing that the value proven shall be either that of the time of the execution of the replevy bond or that of the time of the trial, as the defendants may elect."

The bill was read third time and was passed finally.

S. B. No. 72 on Second Reading.

The Chair laid before the Senate as regular order, on second reading,

S. B. No. 72, A bill to be entitled "An Act to amend Chapter 5, Title 8, of the Code of Criminal Procedure of the State of Texas of 1911, so as to prevent the reversal of criminal cases by the Court of Criminal Appeals upon technicalities and irregularities; and declaring an emergency."

The bill was read second time.

Senator Fairchild moved that further consideration of the bill be postponed until next Thursday, January 25.

Question: Shall S. B. No. 72 be postponed?

Bills Signed.

The Chair, Lieutenant Governor T. W. Davidson, gave notice of signing, and did sign, in the presence of the Senate, after its caption had been read, the following bill:

S. B. No. 28.

Adjournment.

On motion of Senator Wood, the House at 12:05 p. m. adjourned until 10 o'clock a. m. next Monday.

APPENDIX.

Committee Reports.

Senate Chamber,
Austin, Texas, Jan. 19, 1923.
Hon. T. W. Davidson, President of
the Senate:

Sir: We, your Committee on
Engrossed Bills have had S. B. No.
65 carefully compared and find same
to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Jan. 19, 1923.
Hon. T. W. Davidson, President of
the Senate:

Sir: We, your Committee on
Engrossed Bills have had S. B. No.
64 carefully compared and find same
to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Jan. 19, 1923.
Hon. T. W. Davidson, President of
the Senate:

Sir: We, your Committee on
Engrossed Bills, have had S. B. No.
74 carefully compared and find it
to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Jan. 19, 1923.
Hon. T. W. Davidson, President of
the Senate:

Sir: We, your Committee on
Engrossed Bills, have had S. B. No.
85 carefully compared and find same
to be correctly engrossed.

DOYLE, Chairman.

Committee Room,
Austin, Texas, January 18, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Crimi-
nal Jurisprudence, to whom was re-
ferred

S. B. No. 10, A bill to be entitled
"An Act to amend Title 17, Chapter 18,
Vernon's Penal Code of Texas, 1916, by
adding thereto Article 1422a relative
to the offense of swindling so as to
prohibit the obtaining of money or
other thing of value with intent to
defraud by the giving or drawing of
any check, draft or order upon any
bank, person, firm or corporation with
which the person giving or drawing
such check, draft or order has not
sufficient funds to pay same; provid-
ing that after ten days from the time

such person giving or drawing such
check, draft or order has received
written notice as hereafter provided
that payment of such check, draft or
order is refused by the drawee shall
be prima facie evidence of intent to de-
fraud on the part of the person giving
or drawing such check, draft or order;
defining what shall constitute notice;
providing a penalty; repealing all laws
and parts of laws in conflict herewith;
and declaring an emergency."

Have had the same under considera-
tion, and I am instructed to report
it back to the Senate with the recom-
mendation that it do pass.

TURNER, Chairman.

I am instructed to report by Parr
that it do not pass.

TURNER, Chairman.

Committee Room,
Austin, Texas, January 18, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Crimi-
nal Jurisprudence, to whom was re-
ferred

S. B. No. 44, A bill to be entitled
"An Act relative to appearance bonds,
bail bonds, appeal bonds, and recog-
nizances in criminal cases; prohibiting
any attorney at law from becoming
surety on any such bonds or recog-
nizances where the surety becomes
such for a valuable consideration; pro-
viding penalties for violations of the
Act; providing for the disbarment of
attorneys for violating the Act; and
declaring an emergency."

Have had the same under considera-
tion, and I am instructed to report it
back to the Senate with the recom-
mendation that it do pass.

TURNER, Chairman.

Committee Room,
Austin, Texas, January 18, 1923.
Hon. T. W. Davidson, President of
the Senate.

To Senator Turner, Chairman of Com-
mittee on Criminal Jurisprudence.

Sir: We, your sub-committee, beg
to report that we have had under con-
sideration S. B. No. 44, and we rec-
ommend that said bill be reported
back to the Senate, that it do pass
with the following amendment: In
line 4 of said bill strike out the two
words "criminal offense" and insert
in lieu thereof the word "felony."

Respectfully submitted,

DAVIS,
THOMAS.

Committee Room,
Austin, Texas, January 18, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 124, A bill to be entitled "An Act amending Article 418 of the Code of Criminal Procedure of the State of Texas; providing that the Court may appoint upon the recommendation of the District Attorney, one or more bailiffs to attend upon the grand jury, who shall be peace officers during the term of their respective appointments and who shall act under the direction of the District Attorney while acting as peace officers, and providing the oath to be administered to such bailiffs; and amending Article 419a of the Code of Criminal Procedure, providing for the compensation of bailiffs to the grand jury and providing that they shall receive no additional compensation for services performed while acting as peace officers."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

TURNER, Chairman.

Committee Room,
Austin, Texas, January 18, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 125, A bill to be entitled "An Act making it unlawful for any person to discharge any gun, pistol or any other firearm upon or across any public street, road or highway in this State and providing for a penalty for the violation thereof."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

TURNER, Chairman.

Committee Room,
Austin, Texas, Jan. 19, 1923.
Hon. T. W. Davidson, President of
the Senate:

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 75, A bill to be entitled "An Act providing that any person, firm, corporation, limited partnership, joint stock association, or as-

sociation of any kind whatever, owning or holding a permit from the Game, Fish and Oyster Commissioner of the State of Texas, to excavate and take from any island, reef, bar, lake, river, creek, bayou or bay of this State, marl, mud shell, oyster shell, sand and gravel, shall have the right and power to condemn land for the purpose of erecting plant sites and plants, railroad spurs, and opening roads and passageways to said plant on place of operations, and providing that the method of condemnation shall be the same as is now provided by law in case of railroads, and declaring an emergency."

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do pass.

WITT, Chairman.

Committee Room,
Austin, Texas, Jan. 19, 1923.
Hon. T. W. Davidson, President of
the Senate:

Sir: We, your Committee on State affairs, to whom was referred S. C. R. No. 11 have had the same under consideration and we beg leave to report the same back to the Senate with a recommendation that it be passed.

WITT, Chairman.

Committee Room,
Austin, Texas, Jan. 18, 1923.
Hon. T. W. Davidson, President of
the Senate:

Sir: We, your Committee on Roads, Bridges, and Ferries, to whom was referred

S. B. No. 45, A bill to be entitled "An Act to amend Article 6958 of the Revised Statutes of 1911, so as to require the marking of highway intersections and authorizing Commissioners' Courts to have same marked by advertising concerns, prescribing a penalty, and declaring an emergency."

Have had same under consideration, and I am instructed to report it back with the recommendation that it do pass.

BURKETT, Chairman.

Committee Room,
Austin, Texas, Jan. 19, 1923.
Hon. T. W. Davidson, President of
the Senate:

Sir: We, your Committee on

Judicial Districts, to whom was referred

S. B. No. 32, A bill to be entitled "An Act creating two additional district courts for Dallas County, defining their jurisdiction, adjusting the business of the existing district courts to the business thereof, prescribing the duties of the district clerk with respect thereto, repealing all laws and parts of laws in conflict therewith, and declaring an emergency."

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

POLLARD, Chairman.

Committee Room.

Austin, Texas, Jan. 17, 1923.

Hon. T. W. Davidson, President of the Senate:

Sir: We, your Committee on Judicial Districts, to whom was referred

S. B. No. 127, A bill to be entitled "An Act to amend Section 1 of Chapter 8 of the General Laws passed at the Regular Session of the Thirty-fourth Legislature, reorganizing the Thirteenth Judicial District of Texas; providing for terms of court and the organization of juries; and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

POLLARD, Chairman.

TENTH DAY.

Senate Chamber,
Austin, Texas.

Monday, January 22, 1923.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor T. W. Davidson.

The roll was called, a quorum being present, the following Senators answering to their names:

Baugh.	Lewis.
Bledsoe.	McMillin.
Bowers.	Pollard.
Burkett.	Rice.
Clark.	Ridgeway.
Cousins.	Rogers.
Darwin.	Strong.
Davis.	Stuart.
Doyle.	Thomas.

Turner.
Watts.
Witt.

Wood.
Woods.

Absent—Excused.

Bailey.
Dudley.
Fairchild.
Floyd.

Holbrook.
Murphy.
Parr.
Wirtz.

Prayer by the chaplain.

Pending the reading of the Journal of Friday, the same was dispensed with on motion of Senator Watts.

See Appendix for petitions and committee reports.

Excused.

Senator Murphy for today, on account of important business, on motion of Senator Lewis.

Senator Wirtz indefinitely, on account of illness, on motion of Senator Cousins.

Senator Holbrook indefinitely, on account of important business, on motion of Senator Witt.

Senator Clark for today, on account of important business, on motion of Senator Woods.

Senator Fairchild for today, on account of important business, on motion of Senator Cousins.

Senator Floyd for today, on account of illness, on motion of Senator Pollard.

Senator Bailey for today, on account of important business, on motion of Senator Thomas.

Senator Parr for today and the balance of this week, on account of important business, on motion of Senator Clark.

Bills and Resolutions.

By Senators McMillin and Watts:

S. B. No. 159, A bill to be entitled "An Act providing for the licensing of chiropractors; for registering license granted to and certain sworn statements required to be made by chiropractors, and providing for the duty of the County Clerk in reference thereto; providing for the introduction of certain records and certified copies thereof in evidence and the effect of such evidence; defining the practice of chiropractic; providing a penalty for practicing chiropractic in violation of the provisions of this